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LETTER DATED 1 JULY 1996 FROM THE CHARGE D'AFFAIRES A.I. OF THE PERMANENT MISSION OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit herewith the text of a memorandum of the Ministry of Foreign Affairs of the Democratic People's Republic of Korea dated 25 June 1996 (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) KIM Su Man
Ambassador
Chargé d'affaires a.i.

Annex

Memorandum of the Ministry of Foreign Affairs of the Democratic People's Republic of Korea, issued at Pyongyang on 25 June 1996

Recently, the "United Nations Command" played out a scene of submitting a report to the United Nations Security Council (S/1996/351 and Corr.1), just to make its presence felt.

The whole world knows very well that there is no legal basis whatsoever that could justify the existence of the "United Nations Command" in south Korea and that it is only the United States military forces that remain today under the "United Nations Command".

This notwithstanding, the United States and the south Korean authorities are leaning over backwards to prove a continuing existence of the de facto defunct "United Nations Command", which the United Nations itself does not want, either.

Considering it necessary to disclose again the true picture of the "United Nations Command", the Ministry of Foreign Affairs of the Democratic People's Republic of Korea issues this memorandum.

1. "The United Nations Command" is a product of dark designs

"The United Nations Command" in south Korea was not established by a United Nations resolution, but it is a product of the cold war era that came into existence through the abuse of the name of the United Nations.

While preoccupied with efforts to expand its sphere of influence in the post-Second World War period characterized by the East-West confrontation that bipolarized the world, the United States decided to put under its control the whole Korean peninsula for the geopolitical and military importance of its location in Asia.

It was on the basis of such consideration that the United States pushed forward elaborate preparations before launching a surprise all-out armed invasion against the Democratic People's Republic of Korea at daybreak on 25 June 1950, by instigating the Syngman Rhee puppet clique.

In starting the war, the United States saw fit to exploit the United Nations Security Council for the purpose of camouflaging its true colours as the war provoker and justifying its acts of aggression.

At that time, the members of the United Nations Security Council were mostly nations allied to the United States. Furthermore, the Soviet Union, a permanent member of the Security Council, boycotted the work of the United Nations Security Council over the issue of the representation of the "Republic of China", thus leaving the Security Council free from any possibility of the veto power being exercised.

Under its carefully premeditated plan, the United States made a tactful use of this opportunity, and manoeuvred the United Nations Security Council into branding the Democratic People's Republic of Korea as the so-called "aggressor" on 25 June 1950 and on 7 July railroaded through the Security Council an unjust "resolution" calling upon Member States to provide military forces as multinational forces to the Korean war. This was a wanton violation of the fundamental principles and basic procedures of the United Nations.

The then Charter of the United Nations said in paragraph 3 of Article 27 that decisions of the Security Council on all matters shall be made by an affirmative vote of seven Security Council members, including the concurring votes of all its permanent members. But, the United Nations Security Council adopted "resolutions" on the Korean war illegally without the participation of the Soviet Union, a permanent member of the Security Council.

And under Article 32 of the Charter, any State that is not a member of the United Nations, if it is a party to a dispute under consideration by the Security Council, is entitled to participate, at the Council's invitation, in the discussion relating to the dispute.

However, the United Nations Security Council intentionally excluded a representative of the Democratic People's Republic of Korea, a party to the Korean war, from the Council meeting, and invited only a south Korean "representative" to the meeting.

This is why there was no legal validity in the result of the United Nations Security Council's discussions on the Korean war. None the less, United States President Truman "appointed" the Tokyo-based "United States Commander-in-Chief in the Far East" MacArthur as the "Commander of the United Nations Forces" on 8 July 1950 and established the "United Nations Command" on 25 July, thus putting the "United Nations forces" helmets on the allied forces engaged in the Korean war.

The United States and the south Korean authorities, in declared defiance of all these historical facts, still keep stretching the truth as if the United Nations Security Council's resolution 84 (1950), adopted illegally on 7 July 1950, served as a legal basis for the dispatch of the "United Nations forces" and establishment of the "United Nations Command".

There is also no legality that could justify the existence of the "United Nations Command" in south Korea.

There is no paragraph in Security Council resolution 84 (1950) that specifically authorized either the dispatch of the "United Nations forces" to the Korean war or the establishment of the "United Nations Command". If any, there is just a reference to the Security Council recommending that all United Nations Members providing military forces "make such forces available to a unified command under the United States of America".

In this regard, the then French President de Gaulle in February 1965 criticized the United Nations Security Council's resolution of 7 July 1950 on

sending the "United Nations forces" to Korea as a deviation from the principles of the Charter.

The United Nations Secretary-General made it clear in his letter of 24 June 1994 to the Minister for Foreign Affairs of the Democratic People's Republic of Korea that the Security Council in its resolution 84 (1950) of 7 July 1950, had not voted for the establishment of the "United Nations Command" and therefore the dissolution of the "United Nations Command" did not fall within the responsibility of any United Nations organ but was a matter within the competence of the Government of the United States.

All the facts graphically prove that the "United Nations Command" in south Korea is a product of the dark designs conceived by the United States by abusing the name of the United Nations and therefore it is nothing but a phantom organ.

Practically, over the last 46 years, the United Nations has neither received any proper report from the "United Nations Command" nor has it issued any order to the "United Nations Command". The "United Nations Command" has so far been in operation under the control of the United States Joint Chiefs of Staff.

In a press interview on 20 March 1956, Clark, who was the "Commander of the United Nations Forces" towards the end of the Korean war, said that "I served as the 'Commander of the United Nations Forces' in Korea, but I do not remember having received any directive whatsoever from the United Nations during the war".

When asked by the United States Senate Foreign Relations Committee in February 1970 if "any military actions can be taken without any additional resolution or steps from United Nations Headquarters", the then "Commander of the United Nations Forces" Micheles replied that "I am not in a position to take any form of actions without any permission from my superior authority. What I mean by my superior authority is the United States Joint Chiefs of Staff". This is a true confession of the persons who served as the "Commander of the United Nations Forces".

The "United Nations Command", which has never received either directives or financial support from the United Nations, continues its phantom existence in south Korea up to now, and this is, indeed, a crying shame for the United Nations.

2. "The United Nations Command" should be dismantled

From the viewpoint of international law, the legal qualification of a party to any legal arrangement requires its legal capacity to fulfil its treaty-bound obligations.

But the "United Nations Command" lacks both de jure power and the capacity necessary to perform its duties and responsibilities, since the "United Nations Command" remains only in name and it is nothing but a group of United States-led multinational forces. This has been demonstrated eloquently by the real status

of the "United Nations Command" that has undergone a spontaneous disintegration in the post-Korean war period without any decision of the United Nations.

Those 15 Governments, except the United States, that once provided their national contingents to the "United Nations forces" during the war, have ordered home their respective military forces but without any notice thereof to the United Nations.

France withdrew its contingent from the "United Nations forces" on 23 October 1953; Canada in April 1956; Luxembourg on 30 December 1954; the Philippines and South Africa in October and November 1953 respectively; Belgium in 1956; Greece on 13 July 1955; Colombia in October 1954; the Netherlands in March 1956; Ethiopia in December 1954; Australia in July 1953; the United Kingdom of Great Britain and Northern Ireland in July 1957; New Zealand in October 1953; Turkey in July 1956; and Thailand in July 1955.

Furthermore, a majority of these countries, including Ethiopia, the Netherlands, Belgium, Greece and South Africa, have now ceased from any contacts with the "United Nations Command".

Having been left alone under the "United Nations Command", the United States was reduced to recognizing formally on 22 September 1975 that the "United Nations Command" was simply an organ that consisted of the staff personnel and guards of honour numbering less than 300.

The reality attests to the inevitability of the eventual dissolution of the "United Nations Command", the phantom existence of which has long since fallen into oblivion.

The "United Nations forces" now in south Korea are none other than United States forces and the "United Nations Command" is none other than an attachment to the "United States-south Korean Combined Forces Command".

The United States has set up a titular office for the Military Armistice Commission in this "Combined Forces Command" headed by a United States army general, and named the office the "United Nations Command".

Ever since the establishment of the United Nations, such a "United Nations Command" exists nowhere in the world other than south Korea.

The existence of the "United Nations Command" constitutes a serious obstacle to peace and stability on the Korean peninsula.

It is under the signboard of the "United Nations Command" that the United States has systematically violated and undermined the Armistice Agreement and the armistice supervisory body.

The "United Nations Command" has only been playing the role of fully patronizing the United States and the south Korean puppets in their war provocation machinations and arms build-up on the Korean peninsula.

The dissolution of the "United Nations Command" and the establishment of a new security order have come up as an urgent problem today. The present situation calls for an immediate dissolution of the phantom "United Nations Command".

As part of its steps to help achieve a lasting peace on the Korean peninsula, the United Nations General Assembly at its thirtieth session adopted resolution 3390 (XXX) B calling for the dissolution of the "United Nations Command".

The United States-sponsored resolution 3390 (XXX) A, which was adopted together with the above resolution, also contains a reference to the preparedness to dissolve the "United Nations Command" when alternative arrangements are in place.

The Government of the Democratic People's Republic of Korea has continued its efforts to develop environments for the dissolution of the "United Nations Command" created by the United States, and these efforts have provided sufficient alternative arrangements for the dissolution of the "United Nations Command".

In January 1984, the Government of the Democratic People's Republic of Korea advanced the proposal for the conclusion of a peace agreement between the Democratic People's Republic of Korea and the United States and a non-aggression declaration between north and south Korea.

The sincere efforts made thereafter by the Democratic People's Republic of Korea led to the adoption and effectuation on 19 February 1992 of the "Agreement on Reconciliation, Non-Aggression, Cooperation and Exchanges between the North and South" under which both sides pledged themselves to non-aggression and the north-south joint military committee was established.

On 28 April 1994, the Government of the Democratic People's Republic of Korea proposed the establishment of a new peace arrangement on the Korean peninsula, and on 21 October the Democratic People's Republic of Korea and the United States signed the Democratic People's Republic of Korea-United States Agreed Framework.

On 22 February 1996, the Democratic People's Republic of Korea put forward another expanded proposal for the establishment of a new peace arrangement.

Despite the readiness of all necessary conditions for the dissolution of the "United Nations Command", the United States is going to any lengths to maintain the "United Nations Command" and trying to get the south Korean authorities involved in such attempts.

They describe south Korea as a member under the "United Nations Command" and even try to put up south Korea as a party to the Korean Armistice Agreement.

At the time of the signing of the Armistice Agreement, the south Korean authorities launched a dead set anti-armistice campaign, and made a fuss about their determination to "advance northward" even if the "United Nations forces"

agreed to the armistice. Furthermore, south Korea is neither a member of the "United Nations forces" nor is it a signatory to the Armistice Agreement.

Therefore, the United States might employ south Korean personnel for the work of the Military Armistice Commission, but the United States is not entitled on all accounts to designate south Korean personnel as its representatives to the Military Armistice Commission.

For more than two years now, the channels for formal contacts between the two belligerent powers on the Korean peninsula have been cut off.

It is high time that the United States seriously considered its assurances over 20 years ago that it was prepared to dissolve the "United Nations Command" if alternative arrangements were in place.

Dissolving the nominal "United Nations Command" is an easy task.

The Government of the United States must declare the dissolution of the "United Nations Command" in south Korea, and the United Nations must take steps to withdraw its flag.

Those few Governments whose national flags still remain displayed at the "United Nations Command" in south Korea should take steps to withdraw their respective national flags therefrom so that they can contribute, although belatedly, to peace and détente on the Korean peninsula.

Under international law, any bilateral agreement or treaty will be automatically terminated if a signatory to that agreement or treaty loses its status as the legal party thus failing to perform its own obligations under the agreement or treaty.

Since the "United Nations Command", a signatory to the Korean Armistice Agreement, remains a titular body, the Democratic People's Republic of Korea reserves its legitimate rights to relinquish its status as a signatory to the Armistice Agreement at any time of its choice.

It is entirely thanks to the patient peace efforts on the part of the Democratic People's Republic of Korea that the armistice still remains unbroken despite the currently defunct armistice mechanism.

The Government of the Democratic People's Republic of Korea will do everything it can to get the "United Nations Command" dissolved, as called for by the United Nations resolution, and to establish a new peace mechanism aimed at deterring armed conflicts and war on the Korean peninsula.